

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

September 10, 2001

Court convened at 9:00 a.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and James McIntyre
Clerk: D. E. Moore

D035520 People v. McCall

Cause called on merits. Cynthia H. Sorman, Esq. argued for appellant. Janelle Boustany, Deputy Attorney General argued for respondent. Cause submitted.

D036305 Jaskolski v. Wawanesa Mutual Insurance Company

Cause called on merits. Michael A. Conger, Esq. argued for appellant. Scott D. Schabacker, Esq. argued for respondent. Mr. Conger replied. Cause submitted.

D035414) Fletcher Hills Highlands Association v. McAbee et al.

D035876) Fletcher Hills Highlands Association v. McAbee et al.

Cause called on merits. Steve Anderson, Esq. argued for appellant. James Peterson, Esq. argued for respondent. Mr. Anderson replied. Cause submitted.

Court recessed at 10 a.m. until 1:30 p.m.

Court recessed at 1:30 p.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Terry O'Rourke
Clerk: D. E. Moore

D036262 People v. Vlahos

Cause called on merits. Robert E. Boyce, Esq. argued for appellant. Teresa Torreblanca, Deputy Attorney General argued for respondent. Cause submitted.

D036642 Ilko v. USAA Insurance

Cause called on merits. Robert Anthony Walker, Esq. argued for appellant. Steven E. Boehmer, Esq. argued for respondent. Mr. Walker replied. Cause submitted.

D036915 International Truck and Engine Corporation v. Air Resources Board et al.

Cause called on merits. Lawrence Levine, Esq. argued for appellant. Randall B. Christison, Deputy Attorney General argued for respondent. Mr. Levine replied. Cause submitted.

D037546 Baldwin et al. v. Summit Hills

Cause called on merits. Steven M. Morger, Esq. argued for appellant. Betty Shumener, Esq. argued for respondent, Summit Hills. Robert J. Odson, Esq. argued for respondent, Summit Hills. Mr. Morger replied. Cause submitted.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

September 10, 2001 (Continued)

D037552 Legrand v. Sycamore Commercial Development Group

Cause called on merits. Robin Meadow, Esq. argued for appellant. Laura Riley Boudreau, Esq. was present in oral argument for appellant, but did not argue. Richard W. Millar, Jr., Esq.. argued for respondent. Mr. Meadow replied. Cause submitted.

Court recessed at 3:20 p.m. until Tuesday, September 11, 2001 at 9:00 a.m.

D038394 In re the Marriage of Moore

The appeal, filed July 16, 2001, from the Supplemental Judgment on Bifurcated Issues is dismissed as untimely under California Rules of Court, Rule 2(a). Larry L. Brown's counsel's request to dismiss the appeal, filed July 6, 2001, from the Second Supplemental Judgment on the ground of waiver is denied without prejudice to bring a formal motion to dismiss.

D033991 People v. Gesse

The judgment is affirmed. O'Rourke, J.; We Concur: Haller, Acting P.J., McDonald, J.

D036772 People v. Alexander

Judgment affirmed. O'Rourke, J.; We Concur: Kremer, P.J., Huffman, J.

D037426 People v. Griggs

The judgment is affirmed. McIntyre, J.; We Concur: Benke, Acting P.J., Huffman, J.

D036882 In re Brian C., a Juvenile

The order is affirmed. Huffman, J.; We Concur: Kremer, P.J., O'Rourke, J.

**D038683 Shea Homes Limited Partnership v. Superior Court of San Diego County/
Prem et al.**

The petition is denied.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

September 11, 2001

COURT CLOSED THIS DATE

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

September 12, 2001

Court convened at 9:00 a.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and James McIntyre

Clerk: D. E. Moore

D035152 People v. Mejia

Cause called on merits. Laura G. Schaefer, Esq. argued for appellant. Elizabeth Voorhies, Deputy Attorney General argued for respondent. Ms. Schaefer replied. Cause submitted.

D036078 People v. Lozano

Cause called on merits. Gregory L. Rickard, Esq. argued for appellant. Elizabeth Voorhies, Deputy Attorney General argued for respondent. Mr. Rickard replied. Cause submitted.

D0359367 People v. Spain

Cause called on merits. Gisela Caldwell, Esq. argued for appellant. Charles Ragland, Deputy Attorney General argued for respondent. Ms. Caldwell replied. Cause submitted.

Court recessed at 9:55 a.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Terry O'Rourke

D036462 Murphy v. Worldcom, Inc.

Cause called on merits. Gregory James Stuman, Esq. argued for appellant. Jonathan Douglas Meer, Esq. argued for respondent. Mr. Stuman replied. Cause submitted.

Court recessed at 10:25 a.m. until 1:30 p.m.

D038584 Lewis v. Superior Court of San Diego County/People

The petition is denied. The stay issued on August 24, 2001, is vacated.

D035411 People v. Mayer

The judgment is affirmed. McDonald, J.; I Concur: O'Rourke, J.;
I Concur and Dissent: Haller, J. (opinion)

D036821 People v. McMullen

Judgment affirmed. O'Rourke, J.; We Concur: Benke, Acting P.J., Huffman, J.

D035055 People v. Hucker

The judgment is affirmed as modified. O'Rourke, J.; I Concur: Haller, Acting P.J.,
I Dissent (by opinion): McDonald, J.

D037580 People v. Smith

Judgment affirmed. McDonald, J.; We Concur: Benke, Acting P.J., McIntyre, J.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

September 12, 2001 (Continued)

D038571 Esparza v. Esparza

The appeal is dismissed pursuant to rule 10(a).

D038410 Claudia A. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorney for petitioner Claudia A. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under Rule 39.1B will not be filed as there are no viable issues for writ review. The case is dismissed.

D037265 People v. Dunn

Judgment affirmed. McDonald, J.; We Concur: Benke, Acting P.J., Haller, J.

D035934 People v. Spencer

The conviction for unlawful possession of a firearm by a convicted felon is reversed. The judgment is otherwise affirmed. McDonald, J.; We Concur: Benke, Acting P.J., Nares, J.

Court reconvened at 1:30 p.m.

Present: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices Patricia Benke and Alex McDonald

Clerk: D. E. Moore

D033930 People v. Norcutt et al.

Cause called on merits. Janice R. Mazur, Esq. argued for appellant, Millar. No appearance by counsel for Norcutt. Charles Ragland, Deputy Attorney General argued for respondent. Ms. Mazur replied. Cause submitted.

D035218 Trippi v. City of San Diego et al.

Cause called on merits. Penny L. Castleman, Esq. argued for appellant. Darin L. Wessel, Esq. argued for respondent. Jane Rheinheimer, Esq. was present in oral argument for respondent, but did not argue. Ms. Castleman replied. Cause submitted.

Court recessed at 2:06 p.m. to change panel members. New panel members: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices Patricia Benke and Judith Haller

D034871 People v. Naddi

Cause called on merits. R. Clayton Seaman, Esq. argued for appellant. Pam Ratner, Deputy Attorney General argued for respondent. Mr. Seaman replied. Cause submitted.

D036837 Fred Lowenschuss Associates v. Lerach et al.

Cause called on merits. Alan Harris, Esq. argued for appellant. Charles Bird, Esq. argued for respondent. Cause submitted.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

September 12, 2001 (Continued)

D035607 Neely v. Weyerhauser Company

Cause called on merits. George J. Berger, Esq. argued for appellant. Thomas Tosdal, Esq. argued for respondent. Mr. Berger replied. Cause submitted.

D034429 People v. Basuta

Cause called on merits. Chuck Sevilla, Esq. argued for appellant. Alana Butler, Deputy Attorney General argued for respondent. Mr. Sevilla replied. Cause submitted.

Court recessed at 4:00 p.m. until Thursday, September 13, 2001 at 9:00 a.m.

D035649 Johnson et al. v. Farmers Insurance Exchange

The petition for rehearing is denied.

D036880 In re Kenneth W., a Juvenile

The order is affirmed. Haller, J.; We Concur: Benke, Acting P.J., Nares, J.

D037358 In re Erik R., a Juvenile

The order is affirmed. Nares, J.; We Concur: Benke, Acting P.J., Huffman, J.

D037828 In re Ignacio D., a Juvenile

The order is affirmed. O'Rourke, J.; We Concur: Benke, Acting P.J., Nares, J.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

September 13, 2001

Court convened at 9:00 a.m.

Present: The Honorable Gilbert Nares, Acting Presiding Justice, and The Honorable Associate Justices
James McIntyre and Terry O'Rourke
Clerk: D. E. Moore

D035844 People v. Taylor

Cause called on merits. Waldemar D. Halka, Esq. argued for appellant. Maxine Cutler, Deputy Attorney General argued for respondent. Cause submitted.

D035769 Rodriguez v. Ameriquest Mortgage

Cause called on merits. Joseph James Rego, Esq. argued for appellant. Sarah Andrus, Esq. argued for respondent. Mr. Rego replied. Cause submitted.

D036662 Philp, Jr. v. San Diego County Bar Association

Cause called on merits. P. Robert Philp, Jr. was present in oral argument for appellant in pro per, and submitted on the briefs. Alan H. Schonfeld, Esq. was present in oral argument for respondent, and submitted on the briefs. Cause submitted.

D036252 Commercial Money Center, Inc. v. Hunt et al.

Cause called on merits. Steve Spinella, Esq. argued for appellant. Matthew Daniel Murphey, Esq. argued for respondent. Cause submitted.

D037096 Pyfer-Reitman v. Pyfer

Cause called on merits. William Arthur Eddy, Esq. argued for appellant. Steven L. Merker, Esq. argued for respondent. Mr. Eddy replied. Cause submitted.

D034521 JLRB Associates v. Jenny Craig, Inc., et al.

Cause called on merits. Thomas Todd, Esq. argued for appellant/cross-respondent. Jeff Miller, Esq. argued for respondent/cross-appellant. Mr. Todd replied. Mr. Miller replied. Cause submitted.

Court recessed at 10:25 a.m. until 1:30 p.m.

D038291 Petrillo v. N.D. Mittleman, D.D.S., Inc., et al.

The appeal is dismissed pursuant to rule 10c.

D038701 People v. Barnett

The notice of appeal is dismissed without prejudice to refile after defendant is sentenced.

D031198 People v. Williams

The judgment is reversed. CERTIFIED FOR PUBLICATION. McDonald, J.; We Concur: Haller, Acting P.J., McIntyre, J.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

September 13, 2001 (Continued)

D037177 People v. Pittman

Judgment affirmed. Nares, J.; We Concur: Benke, Acting P.J., McDonald, J.

D037397 In re Christian U., a Juvenile

The order is affirmed. Benke, Acting P.J.; We Concur: Huffman, J., McIntyre, J.

D037668 People v. Ketner

Judgment affirmed. McIntyre, J.; We Concur: Benke, Acting P.J., Haller, J.

D036480 In re Mark Anthony Jensen

Let a writ of habeas corpus issue directing the Superior Court to (1) vacate the sentence of January 22, 1996, and (2) conduct further sentencing proceedings consistent with this opinion. The trial court shall file an amended abstract of judgment with the Department of Corrections. CERTIFIED FOR PUBLICATION. Haller, J.; We Concur: Kremer, P.J., McIntyre, J.

D035540 People v. Stokes

D038283 In re Stokes on Habeas Corpus

(consolidated) Count three is dismissed; in all other respects, the judgment is affirmed. The petition for writ of habeas corpus is denied. Benke, Acting P.J.; We Concur: Huffman, J., Nares, J.

Court reconvened at 1:30 p.m.

Present: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices Patricia Benke and Alex McDonald

Clerk: D. E. Moore

D032538 Proulx v. Burns

Cause called on merits. Patrick L. Prindle, Esq. argued for appellant. T. Michael Reed, Esq. argued for respondent. Mr. Prindle replied. Cause submitted.

D036759 Maximo et al. v. Sohl et al.

Cause called on merits. Lucila Enriquez, Esq. argued for appellant. Marty Stein, Esq. argued for respondent, Sohl and etc. James Jason Hill, Esq. argued for respondent, Mercy Hospital. Ms. Enriquez replied. Cause submitted.

Court recessed at 2:09 p.m. to change panel members. New panel members: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Alex McDonald

D037803 County of San Bernardino et al. v. Superior Court

Matter called on merits. Michael A. Sachs, Deputy County Counsel argued for petitioner. Robert Louis Wallenstein, Esq. argued for real party in interest, Becker. Janet Houts, Esq. argued for real party in interest, McCarley. Mr. Sachs replied. Matter submitted.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

September 13, 2001 (Continued)

D037541 Corcoran v. City of Huntington Beach et al.

Cause called on merits. William G. Schweizer, Esq. argued for appellant. John M. Fujii, Deputy City Attorney argued for respondent. Mr. Schweizer replied. Cause submitted.

Court recessed at 2:40 p.m. until Friday, September 14, 2001 at 9:00 a.m.

D038577 Robinson v. Superior Court of San Diego County/People

The petition is denied.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

September 14, 2001

D037911 In re Breanna F., a Juvenile

The judgment is reversed. McIntyre, J.; We Concur: Benke, Acting P.J., Nares, J.

Court convened at 9:00 a.m.

Present: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices Richard Huffman and James McIntyre

Clerk: D. E. Moore

D036021 People v. Abney

Cause called on merits. Kristine Marie Watkins, Esq. argued for appellant. Jeff Koch, Deputy Attorney General argued for respondent. Ms. Watkins replied. Cause submitted.

D037357 In re Venus L., a Juvenile

Cause called on merits. Patti Dikes, Esq. argued for appellant. Dorothy A. Hampton, Esq. argued for the minor. Kathryn Krug, Deputy County Counsel argued for respondent. Ms. Dikes replied. Ms. Hampton replied. Cause submitted.

Court recessed at 9:38 a.m. to change panel members. New panel members: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices Richard Huffman and Terry O'Rourke

D034624 Whispering Ridge Homeowners Association v. Chaudry

Cause called on merits. William Turner Hobson, Esq. argued for appellant. William Mayer, Esq. argued for respondent. Mr. Hobson replied. Cause submitted.

D037075 In re Leticia S., a Juvenile

Cause called on merits. Patti Dikes, Esq. argued for appellant. M. Elizabeth Handy, Esq. argued for the minor. Donna Kaiser, Esq. argued for respondent, Mr. W. Gary Seiser, Deputy County Counsel argued for respondent. Ms. Dikes replied. Cause submitted.

Court recessed at 10:30 a.m. until 1:30 p.m.

D034751 Bunn et al. v. Helix View Healthcare Center, Inc., et al.

The judgment is affirmed as modified to add ECV as an additional judgment debtor on an alter ego theory, since the evidence requires such a finding. Each party is to bear its own costs.

Huffman, Acting P.J.; We Concur: McIntyre, J., O'Rourke, J.

D035975 In re the Marriage of Nicholas Kalfas and Sandra English

Judgment reversed. The parties to bear their own appellate costs. Haller, J.; We Concur: Benke, Acting P.J., McDonald, J.

Court reconvened at 1:30 p.m.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

September 14, 2001 (Continued)

Present: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices Patricia Benke and Richard Huffman
Clerk: D. E. Moore

D034838 People v. Adams and Peterson

Cause called on merits. Gary E. Nelson, Esq. argued for appellant, Adams. Laurance S. Smith, Esq. argued for appellant, Peterson via telephone. Ilana Butler, Deputy Attorney General argued for respondent. Mr. Smith replied. Mr. Nelson replied. Cause submitted.

D036769 People v. Lowman

D037523 In re Lowman on Habeas Corpus

Causes called on merits. Amanda Doerrer, Esq. argued for appellant. Matthew Mulford, Deputy Attorney General argued for respondent. Cause submitted as to appeal ONLY, D036769.

D036354 Arenas v. San Diego County Board of Supervisors et al.

Cause called on merits. Ann Esther Menasche, Esq. argued for respondent. Ellen Pilsecker, Deputy County Counsel argued for appellant. Cause submitted.

Court recessed at 2:20 p.m. to change panel members. New panel members: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices Alex McDonald and James McIntyre

D037871 Sharon S. v. Superior Court

Matter called on merits. John L. Dodd, Esq. argued for appellant. Charles A. Bird, Esq. argued for real party in interest, Annette F. Judith E. Klein, Esq. was present in oral argument for the minor, but had nothing to add to the argument. Mr. Dodd replied. William E. Blatchley, Esq. was present in oral argument for the petitioner, but did not argue. Leigh A. Kretzschmar, Esq. was present in oral argument for real party in interest, but did not argue. Matter submitted.

Court recessed at 3:20 p.m. to change panel members. New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Richard Huffman and Gilbert Nares

D035608 People v. Aguirre

Cause called on merits. Russell Babcock, Esq. argued for appellant. Marvin Mizell, Deputy Attorney General argued for respondent. Mr. Babcock replied. Cause submitted.

D035031 People v. Arceo

Cause called on merits. Michelle Rogers, Esq. argued for appellant. Maxine Cutler, Deputy Attorney General argued for respondent. Ms. Rogers replied. Cause submitted.

Court recessed at 3:30 p.m. until Wednesday, September 19, 2001 at 10 a.m.

D036065 Pihlajamaa v. Kaihlan

Submission in this matter is vacated. A draft opinion has been prepared; complex issues require further conferencing within the panel. The cause is resubmitted this day, September 14, 2001. Benke, A P J

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

September 14, 2001 (Continued)

D037567 Cruz, Jr. v. Superior Court of San Diego County/People

Let a peremptory writ of mandate issue directing the superior court to vacate its January 19, 2001, and March 2, 2001, orders denying Petitioner's motions to dismiss the complaint and information and to enter a new order sustaining the motion to dismiss. Petitioner shall recover costs in this writ proceeding. McDonald, J.; I Concur: Huffman, Acting P.J.; Dissenting Opinion: Nares, J.

D035772 People v. Pfeifer

The judgment is affirmed with directions that the abstract of judgment be corrected to show the Penal Code section 12022.1, subdivision (b) enhancements relating to counts 2, 3, and 7 as stricken. McDonald, J.; We Concur: Benke, Acting P.J., Haller, J.

D037726 In re Kassandra O., a Juvenile

The order is reversed and the matter remanded to the juvenile court for clarification for its order for visitation between Kassandra and Father. The court shall specify conditions to be met before visitation occurs. Nares, J.; We Concur: Huffman, Acting P.J., McDonald, J.

D037651 In re Gerald W., et al.

The judgments are affirmed. Kremer, P.J.; We Concur: Benke, J., O'Rourke, J.

D035515 People v. Salas

D037838 In re Salas on Habeas Corpus

(Consolidated) The judgment is affirmed. The petition for a writ of habeas corpus is denied. Nares, J. Benke, Acting P.J., O'Rourke, J.